

**17-432 CHINA AGRITECH, INC. V. RESH**

DECISION BELOW: 857 F.3d 994

LOWER COURT CASE NUMBER: 15-55432

**QUESTION PRESENTED:**

In *American Pipe and Construction Co. v. Utah*, 414 U.S. 538 (1974), and *Crown, Cork & Seal Co. v. Parker*, 462 U.S. 345 (1983), this Court held that the "timely filing of a defective class action toll[s] the limitations period *as to the individual claims* of purported class members." *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96 n.3 (1990) (emphasis added). In this case, two defective class actions were filed during the limitations period. Respondents, absent members of the rejected classes, filed a third class action, this time outside the limitations period. The Ninth Circuit construed *American Pipe* to toll the limitations period and make this third class action timely. Respondents' class complaint would have been dismissed as untimely in at least six other Circuits, which have held-as this Court recognized in *Irwin* and other cases-that *American Pipe* applies only to individual actions, not new class actions brought by previously absent class members.

The question presented is:

Whether the *American Pipe* rule tolls statutes of limitations to permit a previously absent class member to bring a subsequent class action outside the applicable limitations period.

CERT. GRANTED 12/8/2017